

DEPARTMENT OF TRANSPORTATION**Research and Special Programs
Administration****49 CFR Parts 171 and 175****[Docket No. HM-184D; Notice No. 86-5]****Implementation of the ICAO Technical
Instructions****AGENCY:** Office of Hazardous Materials
Transportation, Research and Special
Programs Administration, DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations (HMR) in order to permit the offering, acceptance and transportation by aircraft, and by motor vehicle incident to transportation by aircraft, of hazardous materials shipments conforming to the most recent edition of the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). These amendments are necessary to facilitate the continued transport of hazardous materials in international commerce by aircraft when the 1987 edition of the ICAO Technical Instructions becomes effective on January 1, 1987, pursuant to decisions taken by the ICAO Council regarding implementation of Annex 18 to the Convention on International Civil Aviation.

DATE: Comments must be received by October 17, 1986.

ADDRESS: Address comments to Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Branch is located in Room 8426, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Elaine Economides, Acting International Standards Coordinator, Office of Hazardous Materials Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590, (202) 366-0656.

SUPPLEMENTARY INFORMATION: On December 2, 1985, the Research and Special Programs Administration (RSPA) published amendments to the Hazardous Materials Regulations [50 FR 49393] which authorize under certain

conditions, and with certain limitations, hazardous materials packaged, marked, labeled, classified and described and certified on shipping papers as provided in the 1986 edition of the ICAO Technical Instructions to be offered, accepted and transported by aircraft within the United States and aboard aircraft of United States registry anywhere in air commerce. In addition, amendments were published to Part 175 of the HMR to align the exceptions for aircraft parts and supplies aboard aircraft with those in the 1986 edition of the ICAO Technical Instructions. It was necessary that these amendments be published in order to provide consistency between the Hazardous Materials Regulations and the ICAO Technical Instructions because the ICAO Technical Instructions have become the basic standard applied to the transport of hazardous materials by aircraft worldwide. A more detailed explanation of the reasons for this action was provided in the Notice of Proposed Rulemaking published under Docket No. HM-184 on August 2, 1982 [47 FR 33295].

Since publication of the final rule under Docket No. HM-184C, ICAO has developed a number of amendments to the ICAO Technical Instructions. These amendments have been incorporated in the 1987 edition of the ICAO Technical Instructions which will become effective on January 1, 1987. In order to continue to fulfill the intent of the amendments published under Docket Nos. HM-184, HM-184A, HM-184B, and HM-184C (i.e., to facilitate the international transportation of hazardous materials by aircraft by insuring a basic consistency between the HMR and the ICAO Technical Instructions), the RSPA believes it necessary to amend certain provisions of the HMR to reflect changes introduced in the 1987 edition of the ICAO Technical Instructions. The purpose of this rulemaking action is to propose these necessary amendments to the HMR.

The following is an analysis of this proposal which provides the background behind the proposed changes:

Section 171.7. The reference to the 1986 edition of the ICAO Technical Instructions in the matter incorporated by reference would be updated to refer to the 1987 edition. A copy of the Report of the Tenth Meeting of the ICAO Dangerous Goods Panel, indicating all changes introduced into the 1987 edition of the ICAO Technical Instructions, is on file in the public dockets.

Section 175.10. The exceptions for medicinal and toilet articles in subparagraph (a)(4), and for alcoholic

beverages, perfumes, and colognes in subparagraph (a)(15), which is currently aligned with the corresponding text of the 1986 edition of the ICAO Technical Instructions, would be amended to reflect the changes incorporated in the 1987 edition of the ICAO Technical Instructions, which will become effective January 1, 1987. ICAO has developed a number of amendments to the ICAO Technical Instructions since publication of Docket No. HM-184C (Implementation of the ICAO Technical Instructions), making it necessary to amend to HMR to incorporate these amendments. Part 1, Section 2.3.1. of the ICAO Technical Instructions has been amended to permit certain liquefied gas lighters to be carried aboard passenger aircraft by the aircraft operator for use or sale. It is proposed to amend 49 CFR 175.10(a)(15) to provide a comparable exception, subject to approval of the liquefied gas lighters by the Director, Office of Hazardous Materials Transportation. Part 1, Section 2.4.2, paragraph (b) of the ICAO Technical Instructions has been amended to restrict exceptions for medicinal and toilet articles to articles which are not radioactive and to provide an additional exception for certain aerosols carried in checked baggage. Subparagraph (a)(4) of 49 CFR 175.10 would be amended to provide similar provisions.

Section 175.30. With regard to overpacks and the packages they contain, the operator, with regard to accepting, handling and loading of dangerous goods, must take all reasonable steps to establish that the overpacks does not contain packages bearing the "Cargo Aircraft Only" label unless the exceptions specified in ICAO Technical Instructions, Part 5 Section 1.1.2. are met. Part 5, Section 1.1.2 of the ICAO Technical Instructions has been amended to permit use of an overpack for a package labeled "Cargo Aircraft Only" if not more than one package is overpacked. Subparagraph (e)(1)(iii) would be added to 49 CFR 175.30 to provide a similar exception.

Administrative Notices**A. Executive Order 12291.**

The RSPA has determined that the effect of this regulatory proposal would not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule. This is not a significant rule under DOT regulatory procedures (44 FR 11034) and requires neither a Regulatory Impact Analysis, nor an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory

evaluation is available for review in the Docket.

B. Impact on Small Entities.

Based on limited information concerning the size and nature of entities likely affected, I certify that this notice will not, as promulgated, have a significant economic impact on a substantial number of small entities under the criterion of the Regulatory Flexibility Act.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, incorporation by reference.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

In consideration of the foregoing, 49 CFR Parts 171 and 175 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. The authority citation for Part 171 would be revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR Part 1.

2. In § 171.7, paragraph (d)(27) would be revised to read:

§ 171.7 Matter incorporated by reference.

(27) International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air, DOC 9284-AN/905 (ICAO Technical Instructions), 1987 edition.

PART 175—CARRIAGE BY AIRCRAFT

3. The authority citation for Part 175 would be revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR Part 1.

4. In § 175.10, the introductory text to paragraph (a)(4) would be revised, and paragraph (a)(15) would be revised to read as follows:

§ 175.10 Exceptions

(a)
(4) Non-radioactive medicinal and toilet articles carried by a crewmember or passenger in checked or carry-on baggage, and aerosols, with no subsidiary risk, for sporting or home use when carried in checked baggage only, when:

(15) Alcoholic beverages, perfumes, cologne, and liquefied gas lighters that have been examined by the Bureau of

Explosives (B of E) and approved by the Director, Office of Hazardous Materials Transportation, carried aboard a passenger-carrying aircraft by the operator for use or sale on the aircraft.

5. In § 175.30, paragraph (e)(1)(iii) would be added to read as follows:

§ 175.30 Accepting and inspecting shipments.

(e)
(1)
(iii) Not more than one package is overpacked.

Issued in Washington, DC, on August 12, 1986.

Sherwood C. Chu,
Deputy Director, Office of Hazardous
Materials Transportation.
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